be presumed to have made the publication with malice, unless he can show the contrary; and it is for him to show the contrary. In other words, appellee was properly allowed to acquit itself by satisfying the jury that it made the publication complained of neither recklessly nor with knowledge that the same was libelous."—Law Notes.

NOTE.—As to the appellation of "negro" being slander in Virginia, see Spencer *v.* Looney, 82 S. E. 745, and 20 Va. Law Reg. 527, where the point is annotated.

Assault with Automobile.—The thousands of reported assault and battery cases disclose the use of many and varied instrumentalities. Assaults have been committed with hands, heads, feet, furniture, wearing apparel, books, rolling pins, kisses, etc. Assault with an automobile suggests a giant swinging and throwing cars, as the average man may handle a chair. Nevertheless, the opinion in State *v.* Schutte, 93 Atlantic Reporter, 112, reads in part: "The plaintiff in error was convicted of assault and battery by wilfully and unlawfully' striking and wounding one Thomas Mitchell with an automobile, as charged in the indictment." As to fast driving the court says: "It requires neither argument nor illustration to show that the excessive rate of speed at which an automobile is driven is a product of the will of its driver and not the result of his mere inattention or negligence. The two cannot be confused any more than the hurling of a baseball bat into a crowd of spectators could be confused with its accidentally slipping from the hand of the batter. If a blow inflicted in the former manner would constitute an assault, so must a blow inflicted by a willful act applied to a much more dangerous agency, since it cannot be that what would be a crime if done with a plaything weighing a few ounces ceases to be a crime if committed with an engine weighing thousands of pounds driven by many horse powers of force. It has often been held that responsibility increases with the likelihood of injury, but never the reverse, that I am aware of. There is therefore no legal reason why the crime of assault and battery may not be committed by driving an automobile on a public highway at a rate of speed that endangers the safety of other persons and actually results in such an injury."

Food—Warranty of Quality by Restaurant Keeper.—That there is no implied warranty of the quality of food furnished by a restaurant keeper to a customer for immediate consumption, since the transaction does not constitute a sale, but a rendition of service, is held in Merrill *v.* Hodson, L. R. A. 1915B, 481.